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From:

Sent: Friday, July 26, 2013 2:28 PM

To:

Cc:

Subject: GIK- § 6652(c)(1)(A) penalty proposal

As requested, regarding the application against of the penalty proposed
by Exam:

The IRS can assess penalties not related to a tax without providing a statutory notice of deficiency (SNOD). IRM 20.1.4.1(1)(c)

The § 6652 penalty is not subject to the deficiency procedures, which are used when additional income, estate, or gift tax, and/or related penalties, are proposed (i.e., no SNOD is necessary before the penalty may be assessed). IRM 20.1.1.4.2. An SNOD provides the taxpayer a method of appealing a tax or penalty to the Tax Court before assessment. See § 6212.

The § 6652 penalty is subject to the nondeficiency procedures. IRM 20.1.1.4.2.1. No SNOD is issued, and the taxpayer can not petition the Tax Court. See SEIU v. Comm., 125 TC 63 (15 Sep 2005).

If a penalty is proposed and the taxpayer agrees, the penalty is assessed. If the penalty is proposed and the taxpayer disagrees, a 30-day letter is issued and the taxpayer may file a protest with Appeals. If Appeals sustains the penalty proposal, the penalty is assessed. IRM 20.1.1.4.2(2).

If the penalty is assessed and the taxpayer can not or does not file a protest with Appeals, the taxpayer must pay the penalty and then file a claim for credit or refund. IRM 20.1.1.4.2(4).

If a 30-day letter was not issued, or if the claim for refund is denied, the taxpayer is to be given the opportunity for an appeal. IRM 20.1.1.4.2(5).